

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SCOTT JONES,

Plaintiff,

v.

Case No. 11-12134
Hon. Lawrence P. Zatkoff

PRISON HEALTH SERVICES, *et al.*,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

This matter is before the Court on the Magistrate Judge's Report and Recommendation to Dismiss as Moot Defendant Prison Health Services' ("PHS") Motion to Dismiss for Failure to Prosecute [dkt 76]. In this case, Plaintiff, proceeding *pro se*, filed a complaint with the Court alleging that Defendants—PHS, Doctors Pragna Pandya, David Sharp, Adam Edelman, Zavit Cohen, Yasir Zaidi, John Doe 1-20; and the Michigan Department of Corrections— violated his civil rights by denying or delaying medical care for his alleged cancer [dkt 1].

On November 10, 2011, PHS filed a Motion to Dismiss and/or for Summary Judgment on the grounds that, *inter alia*, PHS cannot be held liable for constitutional violations under a *respondeat superior* theory [dkt 31]. Prior to the Court addressing PHS's Motion to Dismiss and/or for Summary Judgment, PHS filed the instant Motion to Dismiss for Failure to Prosecute. On March 28, 2012, the Court entered an Order adopting the Magistrate Judge's Report and Recommendation to grant PHS's Motion to Dismiss and/or for Summary Judgment—rendering moot PHS's Motion to Dismiss for Failure to Prosecute.

Accordingly, the Court hereby ADOPTS the Magistrate Judge's Report and Recommendation to Dismiss as Moot PHS's Motion to Dismiss for Failure to Prosecute and enters

it as the findings and conclusions of this Court.

Therefore, IT IS HEREBY ORDERED that the PHS's Motion to Dismiss for Failure to Prosecute [dkt 64] is DISMISSED AS MOOT.

IT IS SO ORDERED.

s/Lawrence P. Zatkoff

LAWRENCE P. ZATKOFF

UNITED STATES DISTRICT JUDGE

Dated: July 3, 2012

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on July 3, 2012.

s/Marie E. Verlinde

Case Manager

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